



November 17, 2003

Cathie Matthews
Department of Arkansas Heritage
1500 Tower Bldg.
323 Center St.
Little Rock, AR 72201

Re: Advisory Opinion #483-03-23

Dear Ms. Matthews:

This letter is in response to your request for an advisory opinion in accordance with §19-11-715(b) of the Arkansas Code Annotated of 1987. Your request for an advisory opinion is based on the following facts:

- (a) The Department of Arkansas Heritage and Butler Center intend to collaborate on the creation of an Encyclopedia of Arkansas History and Culture.
- (b) The Butler Center's full time staff will provide most of the content with various writers volunteering their work.
- (c) DAH employees may need to be used to draft some of the content. You are requesting an advisory opinion as to whether these employees may also contract with the Butler Center on a professional/consultant basis, during after hours.

Arkansas Code Annotated §19-11-1001(2) defines contractor (for purposes of professional/consultant services contracts) as excluding state employees "occupying regular full-time or part-time or extra help positions provided by law". In addition, the Rules and Regulations implementing Governor's Executive Order 98-04 and Act 34 of 1999 at 4.A. prohibits "PROFESSIONAL OR CONSULTANT SERVICES CONTRACTS BETWEEN AGENCIES AND STATE EMPLOYEES".

Both the Arkansas Code and the Gov. Exec. Order #98-04 apply to professional/consultant contracts paid by state appropriated funds. In the event that monies used to reimburse employees are other than appropriated funds, the prohibition does not apply.

This advisory opinion is issued in accordance with ACA §19-11-715(b) and compliance with the above course of conduct is deemed to constitute compliance with the ethical standards of the Act and EO 98-04.

Sincerely,

Richard A. Weiss
Director

cc: Joe Giddis
Tom Gay, Office of Atty. Gen.